

Committee on Ways and Means

Tax Legislation Enacted Into Law in 2002

The Job Creation and Worker Assistance Act of 2002, H.R. 3090

- Floor: House approved the conference report on March 7, 2002 and the Senate on March 8, 2002
- Vote: Passed 417-3 in the House and in the Senate 85-9; President signed into law on March 9, 2002
- Revenue: -\$94 billion/5 yrs and -\$42 billion/10 yrs
- Summary: On its fourth attempt at an Economic Stimulus package, the House finally succeeded in getting the Senate to agree to a package.
- Highlights of the package include:
- 30% bonus depreciation provision to kick-start business investment (sunsets after 36 months)
 - For taxable years 2001 and 2002, an increase in the net operating loss carryback from 2 years to 5 years
 - A package of tax benefits to help New York recover from the terrorist attacks
 - Extension for generally two years of a number of tax relief provisions which expired the end of 2001. These provisions include an extension of:
 - Work opportunity tax credit
 - Welfare to work tax credit
 - Personal tax credits against the alternative minimum tax
 - Exceptions under Subpart F for active financing income (extended for five years through 2006)
 - Extended unemployment assistance to laid off workers

The Clergy Housing Clarification Act of 2002, H.R. 4156

- Floor: April 16, 2002 in the House and May 2, 2002 in the Senate
- Vote: Passed 408-0 in the House and by Unanimous Consent in the Senate; President signed into law on May 20, 2002
- Revenue: +\$7 million/5 yrs and +\$33 million/10 yrs
- Summary:
- Current law excludes from tax the rental value of a home provided to a minister or the rental allowance paid to a minister to rent or provide a home.
 - In Warren v. Commissioner, the Tax Court ruled that the exclusion is limited by amounts “used to provide a home” and not limited by the “fair market value rental” of the home. Government appealed to the 9th Circuit arguing the exclusion should not cover such things as lawn care. The 9th Circuit then announced it wished to rule on constitutionality of the exclusion (separation of Church and State issue).
 - The Church Alliance approached the Congress and asked for corrective legislation limiting the exclusion to “fair market rental value” thereby rendering the consideration of the case by the 9th Circuit moot (no case in controversy). The House responded by passing this small revenue raiser.

The Trade Act of 2002, H.R. 3009

Floor: House approved Conference Report on July 27, 2002 and the Senate on August 1, 2002.

Vote: Passed 215-212 in the House and 64-34 in the Senate; President signed into law on August 6, 2002.

Comments: Includes a Health Care Tax Credit for TAA recipients, alternative TAA recipients and PBGC beneficiaries. Provides a refundable credit for up to 65% of the expenses of an eligible individual for qualified health insurance coverage of the eligible individual and his or her qualifying family members.

Tax Bills Which Have Passed the House in 2002

The Armed Services Tax Fairness Act of 2002, H.R. 5557

Floor: October 9, 2002

Vote: 412-0

Revenue: -\$155 million/5 yrs and -\$265 million/10 yrs

Summary: H.R. 5557 provides a special rule for members of the uniformed services and Foreign Service in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes.

The Pension Security Act of 2002, H.R. 3762

Floor: April 11, 2001

Vote: Passed 255-163

Revenue: +\$89 million/5 yrs and -\$1.4 million/10 yrs

Summary: The bill is a measured response to the Enron collapse. The bill requires employers to provide quarterly pension benefit statements, 30 days advance notice of a pension plan blackout, greater rights to diversify out employer stocks, access to investment education and investment advice, and other pension reforms.

The Tax Relief Guarantee Act of 2002, H.R. 586

Floor: April 18, 2002

Vote: Passed 229-198

Revenue: -\$9 billion/5 yrs and -\$374 billion/10 yrs. [Note: these costs represent the tax increase that will go into effect if the bill is not passed.]

Summary:

- Why the Sunset in H.R. 1836? Last Spring, the Congress passed H.R. 1836, the Economic Growth and Tax Relief Reconciliation Act of 2001. This Act provided \$1.35 trillion in tax relief over the 10-year revenue estimating period use in the Senate. Due to an arcane rule only applicable in the Senate, the tax relief provisions in H.R. 1836 expire or “sunset” on December 31, 2010. This so-called “Senate Byrd Rule” permits Senators to raise a point of order against extraneous provisions (those which are unrelated to the goals of the reconciliation process). Under this rule, revenue provisions with a revenue effect outside the 10-year

revenue-estimating period are by definition extraneous. H.R. 1836 was a “budget reconciliation bill” to which the Senate Byrd Rule applied.

- **Repeal of the Sunset:** As amended on the House Floor, H.R. 586 makes the tax reductions in H.R. 1836 permanent by repealing the December 31, 2010 sunset. If the sunset is not repealed, the following tax relief will disappear:
 - Individual income tax rate reductions (including the new 10% tax bracket).
 - Repeal of the death tax (*i.e.*, the death tax springs back into existence on 1/1/11).
 - The new \$1,000 child credit (the credit falls back to \$500 on 1/1/11).
 - Significant measures to ameliorate the marriage tax penalty.
 - The Portman/Cardin pension reform package including an increase in the IRA contribution limit from \$2,000 to \$5,000.
 - Increase in the amount that can be contributed to an Education IRA from \$500 to \$2,000 and tax-free distributions from qualified tuition plans.
 - Greater deductibility of student loan interest.
- **The Taxpayer Protection and IRS Accountability Act:** H.R. 586 also includes the non-controversial taxpayer protection provisions included in H.R. 3991, the Taxpayer Protection and IRS Accountability Act of 2002 (but not the Section 527 provision which caused controversy when the bill was considered by the House on April 10, 2002).

Encouraging Work and Supporting Marriage Act of 2002, H.R. 4626

Floor: May 21, 2002

Vote: Passed 409-1

Revenue: -\$905 million/5 yrs and -\$906 million/10 yrs

Summary:

- Accelerates the increase in the standard deduction for married couples filing joint which was included in the big tax bill last year, H.R. 1836.
- Simplifies the work opportunity tax credit and the welfare to work tax credits of current law by combining the two credits into one. These two credits serve similar purposes and it makes sense to combine them.
- In combining WOTC and WWTC, two liberalization were made:
 - No family income test applies to ex-felons (*i.e.*, employers can hire ex-felons and get the tax credit without considering the income of the ex-felon.
 - Increase the WOTC eligibility age for food stamp recipients from 25 to 30.

Armed Forces Tax Fairness Act of 2002, H.R. 5063

Floor: July 9, 2002

Vote: Passed 413-0

Revenue: -\$69 million/5 yrs and -\$156 million/10 yrs

Summary: Increases from \$3,000 to \$6,000 the exclusion from gross income of death gratuity given to surviving family members of service members who die in the line of duty. Permits uniformed military services to disregard mandatory time away from their personal residence for purposes of excluding gain from sale of principal residence.

Adoption Tax Credit Permanency, H.R. 4800

Floor: June 4, 2002
Vote: Passed 391-1
Revenue: \$0/5 yrs and -\$401 million/10 yrs
Summary: Last year's tax reduction bill increased the adoption tax credit and the adoption assistance program by increasing the maximum credit from \$5,000 to \$10,000; providing a flat \$10,000 credit to families who adopt children with special needs; and increasing the availability of the credit. These enhancements are scheduled to expire after 2010 because of an arcane budget rule that applies only in the Senate. H.R. 4800 would make these enhancements permanent.

Holocaust Restitution Tax Fairness Act of 2002, H.R. 4823

Floor: June 4, 2002
Vote: Passed 392-1
Revenue: -\$3 million/10 yrs
Summary: Repeals the sunset of H.R. 1836, the Economic Growth and Tax Relief Reconciliation Act of 2001, with respect to the exclusion from Federal income tax of restitution received by victims of the Nazi regime.

Retirement Savings Security Act of 2002, H.R. 4931

Floor: June 21, 2002
Vote: Passed 308-70
Revenue: \$0/5 yrs and -\$6.1 billion/10 yrs
Summary: Last year's tax reduction bill included comprehensive pension reforms aimed at increasing pension savings. The bill increased the maximum amount that can be contributed to an IRA from \$2,000 to \$5,000; increased the amount that can be contributed to a 401(k) plan from \$10,500 to \$15,000; provided "catch-up contributions" for workers age 50 and older; and provided numerous other reforms aimed at encouraging pension participation and coverage. These pension reforms are scheduled to expire after 2010 because of an arcane budget rule that applies only in the Senate. H.R. 4931 would make these reforms permanent.

Marriage Penalty Tax Bill, H.R. 4019

Floor: June 13, 2002
Vote: Passed 271-142
Revenue: \$0/5 yrs and -\$42 million/10 yrs
Summary: Last year's tax reduction bill included several provisions aimed at reducing marriage tax penalties. These provisions were aimed at low- and middle-income families. The marriage penalty provisions are scheduled to expire after 2010 because of an arcane budget rule that applies only in the Senate. H.R. 4019 would make these provisions permanent.

Permanent Death Tax Repeal Act of 2002, H.R. 2143

Floor: June 6, 2002
Vote: Passed 256-171
Revenue: -\$9.2 million/5 yrs and -\$99.4 million/10 yrs

Summary: Makes permanent the death tax repeal in H.R. 1836, the Economic Growth and Tax Relief Reconciliation Act of 2001. "Repeals the Sunset."
Comments: Estate and generation skipping transfer tax repealed in 2010 and thereafter. Modified carry-over basis rules apply. \$1.3 million aggregate estate basis increase, plus \$3 million spousal basis increase. \$1 million lifetime gift exclusion.
Senate: June 12, 2002, failed to pass the death tax repeal.
Vote: 54-44 (60 votes needed for passage)

Improving Access to Long-Term Care Act of 2002, H.R. 4946

Floor: July 25, 2002
Vote: Passed 362-61 (under suspension)
Revenue: -\$1.4 billion/5 yrs and -\$5.3 billion/10 yrs
Summary:

- Provides an above-the-line deduction for a percentage of eligible long-term care premiums for which the taxpayer pays at least 50 percent of the cost of coverage. The deduction is available to individuals with AGI between \$20,000 and \$40,000 (twice the amount for married filing jointly).
- Under current law, individuals are entitled to a personal exemption deduction (\$3,000 in 2002) for the taxpayer, the taxpayer's spouse and each dependent. This bill provides the taxpayer with a phased-in additional personal exemption for each qualified family member with long-term care needs.

Tax Bills Passing Only the Committee in 2002

The Water Quality Financing Act of 2002, H.R. 3930

Markup: April 17, 2002
Vote: Passed by voice vote
Revenue: No revenue effect
Summary: H.R. 3930, as considered by the Transportation and Infrastructure Committee, included a tax provision that permitted tax-exempt bonds to be used to finance private water facilities outside the existing state volume cap and a liberalization of the bond arbitrage rules. The Ways and Means Committee struck the tax provisions from the underlying bill so that the Committee may examine these and other private activity bond provisions.

The Retirement Savings and Security Act of 2002, H.R. 5558

Markup: October 8, 2002
Vote: 24-10
Revenue: -\$14.16 billion/5 yrs and -\$41.48 billion/10 yrs
Summary: H.R. 5558 would gradually increase the minimum distribution age at which seniors are required to start making minimum distributions from tax-favored retirement arrangements, such as Individual Retirement Arrangements (IRAs) or 401(k) plans, from 70 1/2 to 75. The provision is intended to provide individuals with more control and flexibility over their retirement savings.

Under present law, the annual contribution limits under tax-favored retirement arrangements is gradually increasing over the next several years. H.R. 5558 would accelerate the scheduled increases so that the higher limits would take effect beginning next year.

Under present law, individuals who have attained age 50 can make additional catch-up contributions to tax-favored arrangements. The amount of the catch-up contribution is gradually increasing over the next several years. H.R. 5558 would accelerate the scheduled increases in catch-up contribution limits.

To increase the limitation on capital losses applicable to individuals, H.R. 1619

Markup: October 8, 2002
Vote: 24-11
Revenue: -\$9.8 billion/5 yrs and -\$23.9 billion/10 yrs
Summary: H.R. 1619, as amended, would adjust the 1978 figures for inflation by increasing the net capital loss limits from \$3,000 to \$8,250 (\$4,125 for married persons filing separately). The increased limits also would be indexed for inflation for all years after 2002.

The Back to School Tax Relief Act of 2002, H.R. 5193

Markup: September 5, 2002
Vote: 22-14
Revenue: -\$4.9 billion/5 yrs and -\$4.9 billion/10 yrs
Summary: Current law allows parents to claim an above-the-line deduction of up to \$3,000 for higher education expenses. H.R. 5193 extends this relief to K-12 education expenses incurred at public, private, religious, and home schools.

Important Carryover Legislation from 2001

The Community Solutions Act of 2001, H.R. 7

Floor: July 17, 2001
Vote: Passed 233-198
Revenue: -\$4.5 billion/5 yrs and -\$13.3 billion/10 yrs
Summary: Package of 8 provisions to encourage charitable giving including:

- Above-the-line charitable contribution deduction for non-itemizers (phases up to maximum deduction of \$200 for joint filers and \$100 for single filers.
- Tax-free distributions from IRAs for charitable purposes for individuals age 70-½ and above.
- Increase in the cap on corporate charitable contributions from 10% of taxable income to 15%.

Senate: Reported by the Senate Finance Committee on June 13, 2002. Full Senate has not yet acted.

Comment: The Senate amendment in the nature of a substitute is the Charity Aid, Recovery, and Empowerment Act of 2002 (CARE Act)

The Energy Tax Policy Act of 2001, H.R. 4

House Bill

Floor: August 1, 2001

Vote: Passed 240-189

Status: Conference Started on June 27, 2002

Revenue: -\$24.25 billion/5 yrs and -\$36.5 billion/10 yrs, as scored by the JCT on May 23, 2002.

Summary: The House bill contains approximately 40 tax relief measures group under the three themes of (1) conservation, (2) reliability and (3) production. [See attached revenue table for examples of provisions.]

Comment: The conferees are Tauzin (R-LA), Bilirakis (R-FL), Barton (R-TX), Upton (R-MI), Stearns (R-FL), Gillmor (R-OH), Burr (R-NC), Combest (R-TX), Lucas (R-OK), Stump (R-AZ), Weldon (R-PA), Nussle (R-IA), Gutknecht (R-MN), McKeon (R-CA), Norwood (R-GA), Sensenbrenner (R-WI), Smith (R-Texas), Hansen (R-UT), Cubin (R-WY), Boehlert (R-NY), Bartlett (R-MD), Young (R-AK), Petri (R-WI), Thomas (R-CA), McCrery (R-LA), DeLay (R-TX), Dingell (D-MI), Waxman (D-CA), Markey (D-MA), Boucher (D-VA), Gordon (D-TN), Rush (D-IL), Stenholm (D-TX), Skelton (D-MO), Moore (D-KS), George Miller (D-CA), LaFalce (D-NY), Conyers (D-MI), Rahall (D-WV), Hall (D-TX), Costello (D-IL), Woolsey (D-CA), Oberstar (D-MN), Borski (D-PA), DeFazio (D-OR), Rangel (D-NY)

Senate Bill (The Energy Tax Incentives Act of 2002)

Floor: April 25, 2002

Vote: Passed 88-11

Status: Conference Started on June 27, 2002

Revenue: The Senate Finance Committee approved package also contains approximately 40 provisions. More than 20 additional items were added on the Senate Floor. The Senate amendment to H.R. 4 resulted in the JCT score of -\$14.8 billion/5 yrs and -\$20.6 billion/10 yrs. [-\$60 million/5 yrs and -\$331/10 yrs reflects an increased score as a result of the Renewable Portfolio Standard; -\$1.016 billion/5 yrs and -\$4.777 billion/10 yrs reflects another increase from the Renewable Fuels Mandate.]

Comment: The Senate conferees are as follows: Bingaman (D-NM), Hollings (D-SC), Reid (D-NV), Kerry (D-MA), Lieberman (D-CT), Jeffords (I-VT), Baucus (D-MT), Rockefeller (D-WV), Breaux (D-LA), Murkowski (R-AK), Domenici (R-NM), Nickles (R-OK), Craig (R-ID), Campbell (R-CO), Grassley (R-IA), Lott (R-MS). The most controversial aspect of the conference may involve non-tax provisions such as drilling in ANWR.

Other Tax Bills Not Yet Marked Up

The American Competitive and Corporate Accountability Act of 2002, H.R. 5095

Markup: Pending

Vote: Pending

Revenue: Raises \$6.426 billion over 5 yrs / \$1.056 billion over 10 yrs

Summary: H.R. 5095 brings the U.S. into compliance with its WTO obligations, stops corporate inversions, and cracks down on tax shelters and other corporate abuses.

- Repeals the illegal extraterritorial income exclusion act (ETI).

- Includes 19 provisions that make U.S. companies more competitive including, repeal of the subpart F anti-deferral base company rules, modifications to the interest allocation rules, extending the foreign tax credit carry forward provision from 5 to 10 years, reducing the foreign tax credit baskets from 9 to 3, and repealing the 90% limitation on foreign tax credits for purposes of AMT.
- Stops inversions by cracking down on earnings stripping through related party interest payments, imposing a 20% excise tax on executive stock options at time of the inversion, fully taxing transfers of US assets, and imposing a 3 year moratorium on “mailbox” inversion.
- Clamps down on tax shelters by codifying the economic substance doctrine, requiring increased disclosure, and imposing increased strict liability penalties.
- Shuts down deferred compensation abuses.